

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NORTH CAROLINA
ASHEVILLE DIVISION
CASE # 1:20-cv-00189-MR

FILED
ASHEVILLE, N.C.

NOV 19 2021

U.S. DISTRICT COURT
W. DIST. OF N.C.

JASAN E. MCCLELLAN et al
Plaintiff.

vs.

CALEB M. DAVIS et al,
Defendant.

Civil Action No. 1:20-cv-00189-MR

MOTION FOR DEFAULT JUDGMENT

Plaintiff move this court for a judgment by default in this action, and show that the complaint in the above case was filed in this court on the date of July 10, 2020. [Doc. 1]. On April 27, 2021 Plaintiff's Third Amended Complaint [Doc. 28] ~~was~~ survived initial review as to Plaintiff's claims against Defendants Todd Schetter and Caleb Davis for their failure to protect under the eight Amendment [Doc. 29]. The summons was and complaint were duly served on Defendant Caleb Davis on the date of April 27, 2021, ~~and~~ making waiver of service due by June 28, 2021 [Doc. 3]. Basically, Defendant Schetter was served by summons on May 9, 2021. [Doc. 39] No answer or other defense has been filed by Defendant Caleb Davis while Defendant Todd Schetter did eventually respond within court ordered time frame. Default "upon information and belief" ~~is~~ believe was entered in the civil docket in the office of this clerk on the date or around August 27, 2021 [see 6/28/2021 Docket Entry]. No proceedings have been taken by Defendant Caleb Davis since the default was entered; Defendant was was not in military service and is not an infant or incompetent as appears in the declaration of JASAN EVANTS MCCLELLAN submitted here with.

where ~~Fore~~, Plaintiff moves that this court make and enter a judgment that granting plaintiff;

#1) Punitive damages in the amount of \$10,000 against Defendant CALEB DAVIS.

#2) Compensatory damages in the amount of \$9,000 or less against Defendant CALEB DAVIS in both his individual and/or official capacity?

#3) Any additional relief this courts deems just, proper and equitable?

This the 16th Day of November 2021.

Jason E. McCellan
Plaintiff's signature

Plaintiff's Name and Address; Jason E. McCellan, OPUS#0512345
Marion Correctional Inst.
355 Old Glenwood Road
Marion, N.C. 28752.